

EXHIBIT 18

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CERTIFIED COPY

Before The Honorable Beth Labson Freeman, Judge

Cisco Systems, Inc.,)	Case Management Conference
)	
Plaintiff,)	
)	
VS.)	NO. C 14-05344 BLF
)	
Arista Networks, Inc.,)	Pages 1 - 38
)	
Defendant.)	San Jose, California
_____)	Thursday, November 5, 2015

REPORTER'S TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

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Also present: Leah Waterland, Cisco Systems, Inc.

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1 **THE COURT:** Hmm.

2 **MR. VAN NEST:** And so what we've done is two things.
3 We've -- We've ask your Honor to hear a motion to continue the
4 trial --

5 **THE COURT:** Yeah.

6 **MR. VAN NEST:** -- some five months. And the only
7 request I have in that regard today, your Honor, is that the
8 earliest date we could get for a hearing on that motion was in
9 late February.

10 **THE COURT:** Well, that's okay, because the earliest
11 date you could get for trial would be the fall of 2017.

12 **MR. VAN NEST:** There you go.

13 **THE COURT:** So that's not a problem.

14 **MR. VAN NEST:** Okay. Fair enough.

15 **THE COURT:** And Cisco has a problem -- a concern with
16 that, and I don't know whether Mr. Pak wants to respond or
17 Mr. Neukom. I am -- I know that -- that this sort of shifting
18 sands as to who wants to sever, I have a general philosophy
19 that cases are not better by making two cases out of one.

20 But I'm a little concerned here that -- though we may need
21 to be on parallel tracks, and I don't understand the nature
22 and overlap between the patent claims that -- that Cisco is
23 making and the copyright claims to know whether severing would
24 be beneficial actually at this point to both sides or not.

25 **MR. VAN NEST:** Well, our view --

1 directly from other prior sorts of command structures. And so
2 it is --

3 **THE COURT:** But that's determined extrinsic to what
4 the authors are going to say. I don't know. I'll need to see
5 a thorough plan on these depositions if you're suggesting the
6 authors have anything to add.

7 **MR. VAN NEST:** I think -- I think the authors have a
8 lot to add, your Honor, because we don't know -- with 500 of
9 these commands, we have no idea which of the commands they're
10 going to feature in the trial, what authors are going to show
11 up. They gave us one author over the summer, and they've now
12 told us we can depose him on December 10th, so the reason we
13 don't know how much each author's going to add is we haven't
14 been able to depose any of them.

15 So I'm not saying that 60 is a magic number. Of course
16 not. But it does seem to me that to be productive in this
17 case, if we have any chance of -- of a trial any time next
18 year, we'd need to have a number like 20 or 25 to get started
19 so when we come back, we can say this is either tapped out and
20 no longer necessary, or we need more depositions than this.

21 Or -- because, remember, that 10 is for everything,
22 inventors, CLI, and the whole 9 yards. So -- So with respect
23 to the numbers, if you gave us 20 or 25 today as a starting
24 point, we could put a plan together, get some dates in place.
25 Next time we're here, we'd have a little more information.

1 **THE COURT:** All right. Then that is fine. I'm
2 not -- I'm not prepared to rule on your motion to stay based
3 on the IPR filing. It's not -- I don't think anyone expected
4 that.

5 **MR. VAN NEST:** That's right.

6 **THE COURT:** And it is obviously more difficult in
7 advance of IPR being granted, although I have done that. But
8 often, that's when those are the only issues in the case. And
9 here, this is a -- obviously a hybrid with the copyright
10 claims being made.

11 That means, though, that -- I mean, this train is just
12 moving down the tracks, Mr. Van Nest. I don't know that the
13 *Markman* gets taken off track based on your motion to stay. I
14 just don't -- you'll -- you have to file that motion. I think
15 it is appropriate for that to be submitted without argument.
16 There's not much more to say. There are factors to consider.

17 **MR. VAN NEST:** You'll have -- I mean, it's really in
18 your hands. You know when the *Markman* is.

19 **THE COURT:** Yeah.

20 **MR. VAN NEST:** The brief has been filed. We filed it
21 yesterday.

22 **THE COURT:** Oh, all right.

23 **MR. VAN NEST:** We've got it. They'll respond under
24 the rules, and you'll have -- and we'll reply.

25 **THE COURT:** Okay.

1 **MR. VAN NEST:** And you'll have it -- by early
2 December, you'll have all the briefing. If you find an open
3 date and want to hear from us, we're happy to come down. If
4 you can decide it on the papers, decide it on the papers.
5 It's really a question of convenience and effort.

6 The -- That motion addresses both issues. It addresses
7 the patent case and seeks a stay of the patent case --

8 **THE COURT:** Okay.

9 **MR. VAN NEST:** -- pending the IPR. And it seeks a
10 short five-month delay of the copyright case for reasons I've
11 had outlined this morning. They're all in that one motion.

12 So --

13 **THE COURT:** Just -- while you're here -- and I'm -- I
14 think it's highly unlikely that a -- so five months would move
15 you in -- just after the first of the year.

16 **MR. VAN NEST:** It would, right. Although the date we
17 proposed for trial was in the middle of January.

18 **THE COURT:** Well, they talk about the disappearing
19 jury trial. I'm not seeing it.

20 (Laughter.)

21 **MR. VAN NEST:** Me neither, your Honor.

22 **THE COURT:** We have four trials going on right now in
23 this courthouse. If you count the number of judges, you get a
24 sense of how busy we are.

25 **MR. VAN NEST:** We're all happy to see that, your

1 Honor.

2 **THE COURT:** As I am as well. I certainly agree.

3 And that is -- Unfortunately, my calendar is most impacted
4 in that time period. And I would not even -- And you would
5 never be the only case set for trial ever. That just doesn't
6 happen.

7 **MR. VAN NEST:** We're used to that.

8 **THE COURT:** Of course you are. And I'm trying to
9 keep it to two so that there's a higher chance that you'll get
10 out on the date you're set. I actually realistically wouldn't
11 be able to set it until June of 2017, and if I were just --
12 and more comfortably in September when my -- or August -- I'd
13 delay it a year, so that's -- that is -- when you write --
14 when you provide the opposition and -- and the reply, I want
15 you to keep in mind my review of the calendar is it's not
16 really a five-month delay, so that's a -- that becomes a
17 problem.

18 **MR. VAN NEST:** Are there windows earlier than that
19 that are open?

20 **THE COURT:** I'm not seeing any windows earlier. I
21 think June is a window, but September --

22 **MR. VAN NEST:** June of 2017?

23 **THE COURT:** Of '17.

24 **MR. VAN NEST:** And then --

25 **THE COURT:** And I mean, I didn't look later in '16

1 because --

2 (Pause in the proceedings.)

3 **THE COURT:** Well, I'm not -- I mean, I have only one
4 other case set on November 28. How long a trial would this
5 be?

6 **MR. VAN NEST:** I would say --

7 **THE COURT:** I mean, I'll reduce --

8 **MR. PAK:** Two-week trial, your honor. That's what we
9 contemplate.

10 **THE COURT:** Oh, two weeks.

11 **MR. VAN NEST:** If it's everything.

12 **THE COURT:** Everything.

13 **MR. VAN NEST:** Two to three weeks. Two weeks, three
14 weeks, somewhere in that.

15 **THE COURT:** Well, I have a three-week trial set for
16 November 28, but it's the only one I have set then. And it's
17 not -- I don't know which one would have priority. That's not
18 something I can decide. And I don't know if the other one
19 will still be pending. And so that is a window that I could
20 consider.

21 **MR. VAN NEST:** We'll -- We'd take that. We'd take
22 that.

23 **THE COURT:** And then -- remind me of it in your
24 briefs. I won't --

25 **MR. VAN NEST:** November 28th.